

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 6487**

**BILL NUMBER:** HB 1714

**DATE PREPARED:** Dec 28, 1998

**BILL AMENDED:**

**SUBJECT:** Commitment of sexually violent predators.

**FISCAL ANALYST:** Mark Bucherl

**PHONE NUMBER:** 232-9869

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill provides for the civil commitment for an indeterminate period of a person who is found to be a sexually violent predator. It specifies that the purpose of the civil commitment is to provide treatment for a person with a serious mental disorder and then return the person to the community. It also applies to a person who: (1) has been charged with or convicted of a Class A or Class B felony sex offense; and (2) suffers from a mental abnormality that makes the person likely to engage in predatory acts of sexual violence if the person is not confined in a secure facility.

This bill provides that before a person who may be a sexually violent predator may be released from confinement, the releasing authority shall inform a three member review committee consisting of two psychiatrists or psychologists and one prosecuting attorney or deputy prosecuting attorney with experience prosecuting sex offense cases that the person may be a sexually violent predator. It establishes procedures for a determination of probable cause, a hearing, and other procedural safeguards. It provides that if a person is determined by a court to be a sexually violent predator, the person must be committed to a state institution. It provides procedures for the evaluation and review of a person who is committed. It also provides that the person is to be committed for the period that the person's mental abnormality exists to the extent that: (1) the person is not safe to be released back into the community; and (2) if released, the person is likely to engage in acts of sexual violence.

**Effective Date:** July 1, 1999.

**Explanation of State Expenditures:** Passage of this bill may effect the following: (1) Division of Mental Health (DMH) expenditures for overseeing a program for those determined to be a sexually violent predator; (2) Department of Correction (DOC) who is required to notify the review committee of the date of release from total confinement of a person who has been convicted of a sexually violent offense and who may be required to house this individual during the commitment process; and (3) the Attorney General's Office for representing the State in commitment cases.

In the first year, the duties outlined in this bill for the Attorney General include filing for civil commitment and handling the required court cases can be handled with existing staff. Future activities may require additional funds and resources (see below under **Additional Agency Funds and Resources**).

**DOC Felons Potentially Effected:** The fiscal impact of this proposal is based on the number of prisoners currently in DOC facilities that fall under the provisions of this bill as well as prisoners with impending release dates. It is estimated that approximately 1,700 offenders currently incarcerated would be eligible for screening as sexually violent predators. Based on the experiences from other states, between 2% and 3% of these could be civilly committed under this system. The following number of sexually violent predators will be eligible for release from the DOC in the next four year and could be referred to the Review Committee for screening and possible commitment.

<u>Year of Release</u>	<u>Scheduled for Release</u>	<u>Predicted 2% Commitments</u>
FY 2000	190	4
FY 2001	149	3
FY 2002	128	2
FY 2003	117	2

It should be noted that admissions for sexually violent crimes have increased substantially (FY 1995: 185; FY 1998: 298) and future review and commitment rates would be expected to rise as well. Incarceration terms vary for these crimes from 4.3 years for B felony child molesting to 12.8 years for A felony rape.

**Facility Cost:** Based on the figures above, it is estimated that a 100-bed facility would be needed. Currently neither the DOC or DMH has an appropriate facility available. The facility will need to be under strict confinement and be able to segregate these individuals from other persons being treated in the facility. It is estimated that the cost to retrofit an existing non DOC facility, including perimeter security, would be \$7,000,000. To retrofit an existing DOC facility, the estimated cost is \$5,000,000. The estimated cost for a new 100-bed facility is \$10,000,000.

**Treatment Cost:** The cost of treatment of individuals housed at the Isaac Ray Treatment Center (DMH's forensic unit) is approximately \$110,000. It is estimated that the treatment cost for the individuals in this proposal would likely be higher because of the need for security and the type of treatment expertise required. The estimated cost of treatment per person is \$150,000 per year. If four individuals are committed in the first year, the cost of treatment would be \$600,000.

**DMH Administrative Cost:** In addition to the staff needed to operate the facility, additional staff will be necessary for the Division of Mental Health. The State of Washington has experienced more legal processing due to the litigious nature of its sexual predator commitments, who sue over treatment and care conditions. An attorney and a support staff person could be necessary to handle any such claims and to advise the facility as legal issues arise. Support staff will also be required to provide the necessary notices to committed persons as to their right to petition the court for their release. The estimated cost for the two positions is \$80,457 in FY 2000 and \$80,132 in FY 2001 (see under **Additional Agency Funds and Resources**).

**Additional Agency Funds and Resources:** The funds and resources potentially required by the Attorney General's office and DMH could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that

would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

According to the November 30, 1998 manning table the Family and Social Services Administration had 288 vacancies. Of 266 authorized full-time positions in the Attorney General's office, 23 positions were vacant. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** Courts may experience additional hearing expenses for the civil commitment procedures as well as professional evaluations of persons held in county jails to determine whether a person is a sexually violent predator, as defined in this bill.

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction; Division of Mental Health; Attorney General; State Parole Board.

**Local Agencies Affected:** Courts.

**Information Sources:** Kathy Lisby, Department of Correction, 233-4756; Janet Corson, Division of Mental Health, 232-7839; J. D. Lux, Office of Attorney General, 233-6312; Robert Harrison, Kansas Department of Corrections, (913) 296-3317.